The Imperative of Refusal: Legal and Ethical Duties of U.S. Military Commanders in Denying Unlawful Nuclear Orders During Escalating Iran Conflicts

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The contemporary geopolitical landscape, marked by heightened tensions between the United States and Iran, underscores critical questions about nuclear command authority and the obligations of military personnel. As U.S. naval forces, including dual aircraft carrier deployments in the Arabian Sea, position for potential confrontations amid stalled nuclear negotiations, the specter of escalation looms large. This paper explores the legal frameworks governing the refusal of unlawful orders, particularly in hypothetical scenarios involving nuclear strikes ordered in response to provocations such as the sinking of a U.S. carrier. Drawing on the Uniform Code of Military Justice (UCMJ), international humanitarian law, and historical precedents, it examines the duty of commanders to evaluate orders for legality under principles of necessity, proportionality, and distinction. In an era where presidential rhetoric amplifies risks, understanding these mechanisms is vital for preventing unauthorized or disproportionate uses of force. The analysis highlights safeguards like Permissive Action Links and ethical training, while addressing practical challenges in crisis situations. By illuminating the balance between obedience and constitutional fidelity, this work contributes to discourse on military ethics, deterrence strategies, and the prevention of nuclear misuse, offering insights for policymakers, legal scholars, and service members navigating the complexities of modern warfare.

Keywords: nuclear command authority, unlawful orders, UCMJ, laws of armed conflict, Iran nuclear crisis, aircraft carriers, military ethics, nuclear strikes, proportionality principle, Uniform Code of Military Justice, presidential nuclear orders, carrier strike groups.

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1. Introduction

The intersection of military power projection, diplomatic negotiations, and nuclear command authority has rarely been more acute than in the ongoing U.S.-Iran crisis of early 2026. As the United States deploys significant naval and air assets to the Middle East amid stalled talks over Iran's nuclear program, questions arise about the boundaries of lawful military action and the responsibilities of uniformed leaders when confronted with potentially unlawful orders. This paper examines the legal and ethical obligations of U.S. military commanders—particularly those in command of aircraft carrier strike groups—to refuse orders for nuclear strikes that fail to meet established criteria under domestic and international law. In a hypothetical escalation where one carrier is lost to hostile action and a nuclear response is ordered from another, the commander's duty to assess legality becomes paramount. The analysis underscores that obedience is not absolute; fidelity to the Constitution and the laws of armed conflict requires discernment and, when necessary, refusal. By exploring these dynamics, the paper illuminates broader implications for deterrence, civilian control of the military, and the prevention of catastrophic escalation in high-stakes confrontations.

1.1 Background on U.S.-Iran Tensions

U.S.-Iran relations have been marked by decades of hostility, intensified by Iran's nuclear ambitions and support for regional proxies. The 2015 Joint Comprehensive Plan of Action (JCPOA) under the Obama administration sought to limit Iran's nuclear activities in exchange for sanctions relief, but President Trump's withdrawal in 2018 reimposed "maximum pressure" through sanctions and threats of force. Recent developments in 2026 have escalated dramatically. Following reported U.S. strikes on Iranian nuclear facilities in mid-2025, indirect negotiations resumed in early 2026, mediated by Oman and later shifting to Geneva, Switzerland. As of mid-February 2026, a second round of talks concluded with Iranian officials claiming progress on "guiding principles" and an understanding on main issues, though significant gaps remain regarding uranium enrichment levels, ballistic missiles, and regional behavior. U.S. officials described the discussions as constructive but emphasized that detailed proposals from Tehran are expected in the coming weeks to bridge differences.

Parallel to diplomacy, the U.S. has executed a substantial military buildup in the U.S. Central Command area. The USS Abraham Lincoln carrier strike group deployed to the Arabian Sea in late January 2026, accompanied by guided-missile destroyers, cruisers, and support vessels. The USS Gerald R. Ford, the Navy's newest and largest carrier, has been redirected from operations in the Caribbean and is now transiting toward the region, potentially arriving to form a dual-carrier presence—the first in nearly a year. This force includes over a dozen surface combatants, repositioned fighter jets (including F-22s, F-35s, and F-16s), surveillance aircraft, and refueling tankers. President Trump has framed these movements as both pressure for a deal and

preparation for alternatives if negotiations fail, warning of "very traumatic" or "very tough" consequences. Iran has responded with threats from Supreme Leader Ayatollah Ali Khamenei to sink U.S. warships, live-fire drills closing parts of the Strait of Hormuz, and joint exercises with allies. The combination of coercive diplomacy and visible military posturing creates a volatile environment where miscalculation could lead to direct conflict.

1.2 Significance of Nuclear Command Dilemmas

The U.S. maintains sole presidential authority over nuclear weapons use, a system designed for rapid decision-making in existential threats. However, this authority is constrained by legal and ethical safeguards. Commanders throughout the chain must authenticate orders and ensure compliance with the Uniform Code of Military Justice, the laws of armed conflict, and constitutional principles. In scenarios involving tactical nuclear weapons—such as gravity bombs deliverable by carrier-based aircraft—the risk of unlawful orders increases during rapid escalation. Historical removal of tactical nukes from surface ships in 1991-1992 under President George H.W. Bush means no such weapons are currently aboard carriers, but policy reversals or emergency redeployments could change this.

The significance lies in the tension between obedience and accountability. Service members swear oaths to defend the Constitution, not blind loyalty to superiors. Refusing an unlawful order—defined as one violating necessity, proportionality, distinction, or humanity—is not mutiny but a legal duty. Surveys and statements from senior leaders indicate that many would refuse orders for indiscriminate or disproportionate nuclear use. In the context of U.S.-Iran tensions, where conventional strikes might suffice against military targets but nuclear options tempt escalation dominance, commanders could face orders crossing legal thresholds. Such dilemmas test civilian-military relations, deterrence credibility, and the risk of unauthorized nuclear employment. They also highlight vulnerabilities in command structures during crises, where time pressures and incomplete information amplify the burden on individuals to uphold the rule of law.

1.3 Paper Objectives and Structure

This paper aims to clarify the legal criteria for refusing unlawful nuclear orders, apply them to a hypothetical carrier-loss scenario, and explore implications for policy and ethics. It seeks to inform military personnel, policymakers, and scholars on the mechanisms preventing nuclear misuse while preserving effective command authority.

The structure proceeds as follows: Section 2 reviews the historical and current status of nuclear weapons on U.S. carriers and recent naval deployments. Section 3 outlines the legal foundations for obeying and refusing orders. Section 4 details U.S. nuclear command authority and safeguards. Section 5 examines criteria for unlawfulness under necessity, proportionality,

distinction, and constitutionality. Section 6 analyzes the hypothetical scenario of carrier loss prompting a nuclear strike order. Section 7 presents precedents from U.S. and international contexts. Section 8 discusses ethical considerations for commanders. Section 9 assesses broader implications for deterrence and recommendations. Section 10 concludes with key arguments and a call for vigilance in an uncertain geopolitical landscape. Through this framework, the paper contributes to understanding how legal and moral constraints operate amid great-power competition.

2. Historical Context of Nuclear Weapons on U.S. Aircraft Carriers

U.S. aircraft carriers have long served as versatile platforms for power projection, capable of delivering both conventional and nuclear strikes during much of the Cold War era. Tactical nuclear weapons, including gravity bombs for carrier-based aircraft and nuclear-armed cruise missiles, were routinely deployed aboard surface ships and carriers to provide flexible deterrence against Soviet threats in key maritime theaters. These weapons enhanced forward presence and rapid response options, with carrier air wings certified to deliver low-yield nuclear payloads in scenarios ranging from limited war to escalation control. The integration of nuclear capabilities into naval aviation reflected broader U.S. strategy to counter Warsaw Pact numerical advantages with qualitative superiority, including nuclear options at sea. However, the end of the Cold War prompted a fundamental reevaluation of these deployments, leading to their complete removal from surface naval forces.

2.1 Removal Under President George H.W. Bush

In September 1991, amid the dissolution of the Soviet Union and reciprocal de-escalation efforts, President George H.W. Bush announced unilateral initiatives to reduce nuclear arsenals dramatically. In a televised address on September 27, 1991, Bush outlined sweeping measures, including the withdrawal of all tactical nuclear weapons from surface ships, attack submarines, and land-based naval aircraft. This encompassed nuclear Tomahawk cruise missiles (TLAM-N) deployed on ships and submarines, as well as nuclear gravity bombs carried aboard aircraft carriers for delivery by strike aircraft. The decision was part of broader Presidential Nuclear Initiatives (PNIs), which aimed to eliminate thousands of short-range and tactical systems, take strategic bombers off alert status, and reduce risks of accidental or unauthorized use during a period of Soviet instability.

The removal was implemented swiftly: by mid-1992, the U.S. Navy had withdrawn and either destroyed or placed in central storage the relevant weapons. Over 800 nuclear devices were removed from surface warships and naval aircraft alone. Bush emphasized that, under normal circumstances, U.S. ships would no longer carry tactical nuclear weapons, though the capability

for redeployment in crises was implicitly retained at the time. This move was reciprocated in part by the Soviet Union (later Russia), with Gorbachev and Yeltsin announcing parallel reductions. The PNIs resulted in the deepest unilateral nuclear cuts in history, eliminating entire categories of tactical weapons without formal treaty verification. For carriers, this marked the end of routine nuclear arming, shifting focus to conventional operations while preserving strategic nuclear deterrence through submarine-launched ballistic missiles.

2.2 Current Non-Nuclear Status and Policy Debates

As of 2026, U.S. aircraft carriers do not carry tactical nuclear weapons as part of their standard loadout. The 1991-1992 withdrawals were reinforced by subsequent Nuclear Posture Reviews (NPRs) in 1994 and 2001, which phased out residual capabilities for reloading nuclear bombs or missiles onto surface ships and carriers. Modern carrier air wings, including those on Nimitz-class and Ford-class vessels, operate with conventionally armed aircraft such as F/A-18E/F Super Hornets, F-35C Lightning IIs, and EA-18G Growlers. No tactical nuclear gravity bombs (e.g., B61 variants) are certified or stored aboard carriers for naval use, unlike Air Force dual-capable aircraft in Europe.

Policy debates have resurfaced in recent years, driven by great-power competition with China and Russia. A November 2025 U.S. Naval Institute Proceedings article argued for rearming carrier-based aircraft with nuclear weapons, such as the B61-12 bomb, to close a perceived "deterrence gap" and provide flexible low-yield options against peer adversaries. Proponents highlight cost-effectiveness, rapid response from forward-deployed carriers, and reassurance to allies facing nuclear coercion. Critics counter that rearming would risk escalation, complicate command and control, and require significant investments in certification, training, storage modifications, and security protocols—challenges not addressed in current budgets or policy. The 2018 and 2022 NPRs introduced or debated related systems like the nuclear sea-launched cruise missile (SLCM-N), but carrier-specific nuclear rearmament remains conceptual, with no policy reversal or deployment implemented. The Navy maintains a "neither confirm nor deny" posture on nuclear matters, but public sources confirm the non-nuclear status persists.

2.3 Recent Naval Buildups Near Iran

In early 2026, amid stalled nuclear negotiations with Iran and escalating regional tensions, the U.S. Navy has executed a major buildup in the U.S. Central Command area. The USS Abraham Lincoln carrier strike group deployed to the Arabian Sea in late January 2026, operating south of Iran with accompanying guided-missile destroyers, cruisers, and support vessels. This group includes F/A-18E/F Super Hornets, F-35C fighters, EA-18G Growlers, and other assets for strike, electronic warfare, and surveillance missions. Satellite imagery and official reports confirm its position off Oman, approximately 700 kilometers from Iranian shores.

The buildup intensified with the redirection of the USS Gerald R. Ford, the Navy's newest and largest nuclear-powered carrier, from Caribbean operations to the Middle East in mid-February 2026. Accompanied by escorts, Ford is expected to form a rare dual-carrier presence—the first in nearly a year—enhancing sustained air operations and deterrence. Additional forces include over a dozen surface combatants, repositioned fighter jets (F-22s, F-35s, F-15Es), tankers, and surveillance platforms. President Trump has described these deployments as pressuring Iran toward a nuclear deal while preparing alternatives if talks fail, amid warnings of severe consequences. Iran has responded with threats, Strait of Hormuz exercises, and joint drills with allies. This conventional buildup—focused on air and missile strike capabilities—occurs without tactical nuclear weapons aboard carriers, underscoring reliance on precision conventional munitions for potential contingencies while highlighting the enduring post-1991 separation of nuclear and surface naval forces.

3. Legal Foundations of Obeying and Refusing Orders

The U.S. military operates under a strict hierarchy in which obedience to lawful orders is fundamental to discipline, mission accomplishment, and national defense. At the same time, the system explicitly requires service members to refuse orders that are manifestly unlawful. This dual obligation—obey lawful commands while rejecting illegal ones—stems from constitutional principles, statutory law, military regulations, and international commitments. The framework ensures that military power remains subordinate to civilian authority and the rule of law, preventing the armed forces from becoming instruments of tyranny or criminality. In the context of nuclear weapons, where the consequences of unlawful use could be catastrophic, these legal foundations take on heightened importance. Commanders and subordinates alike are trained to recognize and respond to orders that violate domestic statutes, constitutional limits, or internationally recognized norms governing the conduct of armed conflict.

3.1 The Uniform Code of Military Justice (UCMJ)

The Uniform Code of Military Justice, enacted in 1950 and codified in Title 10 of the United States Code, governs the conduct of all members of the armed forces. Article 90 makes it a crime to willfully disobey a lawful order from a superior commissioned officer, while Article 92 criminalizes failure to obey a lawful general order or regulation and dereliction of duty. These provisions establish the default expectation of obedience.

However, the UCMJ also incorporates the principle that only lawful orders must be followed. Article 92 explicitly applies to lawful orders, and military courts have long held that an order is unlawful if it directs the commission of a crime, violates constitutional rights, or contravenes clearly established law. The Manual for Courts-Martial (MCM) reinforces this by stating that an

order is unlawful if it is “patently illegal” or if obedience would require the commission of an act that the individual knows to be wrongful under the law. Examples include orders to murder civilians, torture prisoners, or commit other war crimes.

In practice, service members are trained through annual law-of-war instruction and leadership courses to evaluate orders for legality. The threshold for refusal is high: the order must be clearly and manifestly unlawful, such that a reasonable person in the same circumstances would recognize its illegality. Uncertainty or disagreement with policy does not justify refusal; only patent illegality does. Courts-martial have upheld convictions for disobeying lawful orders while acquitting or mitigating punishment in cases involving genuine belief in unlawfulness, particularly when supported by evidence of training or legal advice.

3.2 Oaths of Enlistment and Commission

Every member of the U.S. armed forces takes an oath that establishes a primary allegiance to the Constitution rather than to any individual or office. Enlisted personnel swear: “I … do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God.”

Commissioned officers take a slightly different oath: “I … do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.”

The placement of constitutional fidelity before obedience to orders is deliberate. The oaths create a hierarchy of duties: support and defend the Constitution first, obey orders second. An order that violates the Constitution—such as one directing an unauthorized war of aggression, indiscriminate destruction, or other unconstitutional acts—places the recipient in conflict with their sworn duty. Senior leaders, including flag and general officers, have repeatedly affirmed in public statements and congressional testimony that their ultimate loyalty is to the Constitution, not to any particular administration or commander-in-chief. This oath-based framework provides both moral and legal grounding for refusal when an order crosses into illegality.

3.3 International Humanitarian Law and LOAC Principles

The United States is party to key treaties of international humanitarian law (IHL), including the Geneva Conventions of 1949 and their Additional Protocols (to which the U.S. is a signatory in part). Domestic law incorporates these obligations through the War Crimes Act (18 U.S.C. §

2441), which criminalizes grave breaches of the Geneva Conventions, and through Department of Defense directives that require compliance with the law of armed conflict (LOAC).

LOAC rests on four core principles:

- **Military necessity**: Actions must be intended to achieve a legitimate military objective and not cause unnecessary suffering.
- **Proportionality**: The anticipated military advantage must not be excessively outweighed by expected incidental harm to civilians or civilian objects.
- **Distinction**: Parties must distinguish between combatants and civilians, directing attacks only against military objectives.
- **Humanity**: Prohibited acts include those causing superfluous injury or unnecessary suffering.

These principles apply to all weapons, including nuclear weapons. The 1996 Advisory Opinion of the International Court of Justice noted that the use of nuclear weapons would "generally be contrary" to IHL, though it did not declare them unlawful in all circumstances (e.g., extreme self-defense of a state's survival). U.S. policy interprets these principles as binding and trains forces accordingly.

Violations of LOAC can constitute war crimes under both international and U.S. law. An order directing indiscriminate nuclear use, disproportionate civilian casualties, or attacks on protected persons or objects would be unlawful under LOAC and therefore under UCMJ. Service members are instructed that obeying such an order does not relieve them of individual criminal responsibility; the "superior orders" defense has been rejected since the Nuremberg trials for manifestly illegal commands.

Together, the UCMJ, constitutional oaths, and LOAC form a coherent legal foundation that requires obedience to lawful orders while imposing a duty to refuse those that are clearly unlawful. In high-stakes nuclear scenarios, these principles place significant responsibility on commanders to exercise independent judgment, seek clarification when possible, and prioritize constitutional and international legality over automatic compliance.

4. Nuclear Command Authority in the United States

Nuclear command authority in the United States is structured to enable rapid, decisive presidential decision-making in existential threats while incorporating multiple layers of control to prevent unauthorized, accidental, or inadvertent use. The system balances the need for speed in a potential nuclear exchange—where minutes can determine survival—with rigorous

safeguards rooted in constitutional design, statutory requirements, and technological measures. This authority resides exclusively with the President as Commander-in-Chief, but execution involves a complex chain of military and civilian actors. The framework has evolved from Cold War imperatives emphasizing survivability and responsiveness, with ongoing modernization efforts addressing emerging threats like cyber vulnerabilities, space-based attacks, and great-power competition. As of 2026, the system continues to prioritize presidential sole authority while reinforcing technical and procedural checks throughout the process.

4.1 Presidential Sole Authority

The President of the United States holds sole authority to authorize the use of nuclear weapons, a principle inherent in the constitutional role as Commander-in-Chief under Article II, Section 2. This authority allows the President to order nuclear employment without requiring approval from Congress, the Vice President, the Secretary of Defense, or any other official. The policy traces back to early Cold War decisions, formalized in documents like NSC-30 in 1948, and has been reaffirmed in subsequent Nuclear Posture Reviews, including those in 2018, 2022, and related guidance through 2026.

The rationale for sole authority stems from the need for immediate response in scenarios involving incoming nuclear attacks, where delays for consultation could compromise retaliation and deterrence. In such cases, the President must act swiftly upon receiving warning from early detection systems. While the President may consult advisors—such as the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the National Security Advisor, or the Commander of U.S. Strategic Command—the final decision remains unilateral. Military leaders provide recommendations and ensure implementation of lawful orders but cannot veto or override the President's directive if it is authenticated and transmitted properly.

Public and expert debate persists over this arrangement, particularly regarding first-use scenarios where time for deliberation exists. Polling indicates widespread discomfort among Americans with sole authority, and legislative proposals have sought to require congressional approval for first strikes or to introduce concurrence requirements from other officials. However, no statutory changes have altered the core principle, and reforms remain unlikely in the current political environment. The system thus preserves the President's exclusive role while relying on downstream actors to execute only authenticated, lawful orders.

4.2 Chain of Command and Authentication Processes

Once the President decides to authorize nuclear use, the order follows a tightly defined chain of command and authentication sequence designed for speed and verification. The process begins with the President, who carries the "nuclear football"—a briefcase containing communication

tools, strike options, and the "biscuit," a laminated card with daily changing authentication codes (known as Gold Codes). These codes enable positive identification of the President.

In a crisis, an emergency conference convenes, linking the President to key advisors via secure channels. The President reviews threat assessments, response options (pre-planned or customized), and consequences. Upon selecting an option, the President authenticates identity to the National Military Command Center (NMCC) in the Pentagon or an alternate facility. The NMCC deputy director issues a challenge using phonetic letters or codes; the President responds from the biscuit. Matching codes confirm authenticity.

The NMCC then formats the launch order—a concise message specifying the war plan, execution time, unlock codes, and sealed authenticator codes. This order transmits via extremely low frequency (ELF), very low frequency (VLF), or satellite systems to executing forces: intercontinental ballistic missile (ICBM) wings, ballistic missile submarines (SSBNs), and bomber squadrons. Forces authenticate the message using their own sealed codes, which differ from presidential ones, ensuring the order originates from authorized command authority.

The chain flows from the President through the NMCC (or backups like alternate NMCC or airborne command posts) to U.S. Strategic Command (STRATCOM) for relay, then to unit commanders and launch crews. Two-person rules apply at execution levels: missile crews, submarine teams, and bomber pilots require concurrence for arming and launch. The entire process, from decision to transmission, can occur in minutes, preserving responsiveness while incorporating verification steps.

4.3 Safeguards Against Unauthorized Use

Multiple technical, procedural, and human safeguards prevent unauthorized nuclear use. Permissive Action Links (PALs) serve as primary mechanical and electronic locks on nuclear weapons or delivery systems, requiring insertion of specific codes to arm or enable detonation. PALs evolved from early mechanical devices to advanced encrypted systems that preclude arming without proper authorization, incorporating anti-tamper features that could disable or mis-detonate the weapon if bypassed. These links focus control directly on authorized users while deterring rogue actions.

Additional measures include environmental sensing devices that prevent detonation outside intended parameters, two-person rules throughout handling and launch processes, and strict personnel reliability programs screening for psychological stability and loyalty. Nuclear command, control, and communications (NC3) architecture—comprising ground, space, and airborne systems—ensures survivable connectivity and redundancy against disruption.

Authentication codes remain segregated: presidential Gold Codes differ from those held by military units, preventing unilateral action by any single individual or group. Ongoing

modernization, including Next Generation Overhead Persistent Infrared for missile warning and resilient NC3 upgrades, addresses cyber and space threats. Human oversight remains central, with policies affirming a "human in the loop" for critical decisions.

These layered safeguards create an "always/never" dynamic: nuclear weapons function reliably when authorized but resist unauthorized attempts. While no system is infallible, the combination of technology, training, and legal accountability minimizes risks of accidental, inadvertent, or rogue use, upholding deterrence while protecting against misuse.

5. Criteria for Determining Unlawful Nuclear Orders

Determining whether a nuclear order is unlawful requires commanders to apply well-established legal tests drawn from domestic military law, constitutional principles, and international humanitarian law. These criteria are not abstract; they are operationalized through training, legal briefings, and the Department of Defense Law of War Manual. An order fails any of these tests if it directs actions that manifestly violate necessity, proportionality, distinction, humanity, or constitutional limits on the use of military force. In nuclear contexts, the threshold for unlawfulness is particularly high due to the scale of destruction involved, but the legal obligation to refuse remains absolute when an order is patently illegal. Commanders are expected to assess available facts, seek clarification from judge advocates when time permits, and weigh the order against these criteria before deciding whether compliance would breach their duty under the Uniform Code of Military Justice and their constitutional oath.

5.1 Necessity and Proportionality

The principle of military necessity permits only those measures required to accomplish a legitimate military objective. Actions must directly contribute to defeating the enemy or achieving a military advantage, and they must not cause harm that is superfluous or unnecessary. Proportionality complements necessity by prohibiting attacks where the expected incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof would be excessive in relation to the concrete and direct military advantage anticipated.

In nuclear scenarios, these principles impose stringent constraints. A nuclear strike must be demonstrably necessary—meaning no feasible conventional alternative exists to achieve the military objective within the time available and with acceptable risk to friendly forces. For example, if precision-guided conventional munitions, cyber operations, or special forces could neutralize a target with comparable military effect, nuclear use would fail the necessity test. Proportionality further requires that anticipated civilian casualties and collateral damage not be excessive relative to the military gain. Even a low-yield tactical nuclear weapon detonated over a

military target near populated areas could produce fallout, electromagnetic pulse effects, and long-term radiological consequences that render the harm disproportionate.

Historical analyses and Department of Defense guidance emphasize that nuclear weapons are not exempt from these rules. The 2018 Nuclear Posture Review reaffirmed U.S. commitment to LOAC principles in nuclear planning, and senior leaders have stated publicly that nuclear employment must satisfy necessity and proportionality. An order directing nuclear use against a target where conventional options remain viable, or where civilian harm would vastly outweigh the military benefit, would be unlawful. Commanders evaluating such an order must consider intelligence estimates, target analysis, and alternative courses of action presented in the decision briefing to determine compliance.

5.2 Distinction and Humanity

The principle of distinction requires parties to a conflict to distinguish at all times between combatants and civilians, and between military objectives and civilian objects. Attacks must be directed only against military objectives—defined as objects that by their nature, location, purpose, or use make an effective contribution to military action and whose total or partial destruction, capture, or neutralization offers a definite military advantage. Indiscriminate attacks—those not directed at a specific military objective, employing means incapable of distinction, or whose effects cannot be limited—are prohibited.

Humanity forbids acts causing superfluous injury or unnecessary suffering and protects persons hors de combat, including the wounded, sick, and prisoners of war. Nuclear weapons pose acute challenges to both principles. A single detonation can produce blast, thermal, and radiation effects over vast areas, potentially rendering distinction impossible if the weapon's yield or delivery method results in widespread civilian casualties or destruction of civilian infrastructure. Fallout and long-term environmental contamination further complicate humanity considerations, as they inflict suffering on populations far removed from the immediate battlefield.

U.S. doctrine and training stress that nuclear weapons must be employed in a manner consistent with distinction and humanity. While the United States has not ratified Additional Protocol I to the Geneva Conventions in full, it regards many of its rules—including distinction and proportionality—as customary international law binding on all states. An order to employ a nuclear weapon against a target where military and civilian elements are intermingled without feasible means of limiting effects, or where the weapon's characteristics make discrimination infeasible, would violate these principles and be unlawful. Commanders must evaluate whether the proposed strike can reasonably distinguish military from civilian targets and whether the anticipated suffering is necessary to achieve the military purpose.

5.3 Constitutionality and War Powers Resolution

Beyond LOAC, nuclear orders must comply with U.S. constitutional and statutory limits on the use of military force. The Constitution vests Congress with the power to declare war (Article I, Section 8), while the President, as Commander-in-Chief, directs military operations. The War Powers Resolution of 1973 seeks to ensure congressional involvement by requiring the President to notify Congress within 48 hours of introducing U.S. forces into hostilities and to terminate such use within 60 days (plus a 30-day withdrawal period) unless Congress authorizes continuation or declares war.

An order for nuclear use in a non-existential scenario—such as a first strike or retaliatory escalation absent an ongoing nuclear attack—could raise serious constitutional questions if undertaken without congressional authorization. While presidents have historically asserted broad authority for limited military actions, a nuclear strike against a sovereign state like Iran would likely constitute an act of war requiring congressional approval under traditional interpretations. Courts have generally avoided ruling directly on War Powers disputes, but legal scholars and some military leaders have argued that manifestly unconstitutional orders—those directing unauthorized wars of aggression or disproportionate uses of force—fall outside lawful presidential authority.

In nuclear contexts, the President's sole authority is most defensible in response to an imminent or actual nuclear attack on the United States or its forces, where delay could prove fatal. In other circumstances, an order lacking constitutional grounding or congressional sanction could be deemed unlawful. Commanders are not constitutional lawyers, but they are trained to recognize orders that appear to exceed lawful executive power. If an order directs nuclear use in a manner that patently violates constitutional allocation of war powers or statutory requirements, refusal may be required to uphold the oath to defend the Constitution. This criterion, though less frequently invoked than LOAC tests, remains a vital safeguard against abuse of nuclear authority in politically contested or unauthorized conflicts.

6. Hypothetical Scenario: Carrier Loss and Nuclear Retaliation

To illustrate the application of the legal and ethical principles discussed in preceding sections, this paper examines a concrete hypothetical: the loss of one U.S. aircraft carrier to Iranian action during an ongoing crisis in the Persian Gulf region, followed by a presidential order directing a nuclear strike from a second carrier still on station. The scenario is deliberately constructed to test the boundaries of lawful nuclear employment under current doctrine, command authority, and international law. While no tactical nuclear weapons are presently deployed on U.S. carriers, the hypothesis assumes a policy reversal or emergency redeployment has occurred,

placing low-yield nuclear gravity bombs (such as the B61-12) aboard carrier-based aircraft and certifying delivery platforms accordingly. This allows analysis of the commander's obligations without altering the underlying legal framework. The purpose is not to predict events but to demonstrate how commanders must evaluate orders against necessity, proportionality, distinction, humanity, and constitutional requirements in real time.

6.1 Provocation by Iran

In this scenario, escalating conventional exchanges have already occurred. U.S. carrier strike groups are positioned in the Arabian Sea and northern Indian Ocean to deter Iranian actions and support negotiations over its nuclear program. Iranian forces, perceiving the U.S. buildup as preparation for preemptive strikes on nuclear facilities, launch a coordinated anti-access/area-denial operation. A salvo of anti-ship ballistic missiles (possibly advanced variants supplied or co-developed with allies), combined with swarming boat attacks, cruise missiles from shore batteries, and submarine-launched torpedoes, overwhelms defensive systems on one carrier—say, the USS Abraham Lincoln. The ship suffers catastrophic damage, with hundreds of sailors killed or injured, and is eventually scuttled or sinks after failed damage control efforts.

The attack constitutes a clear act of war under international law. Iran claims the strike was defensive, asserting that the carrier group had entered Iranian-claimed waters or was preparing to launch strikes on Iranian territory. U.S. intelligence confirms the carrier was operating in international waters, conducting routine flight operations consistent with freedom of navigation. The loss represents a severe provocation: the destruction of a capital ship, significant loss of life, and direct challenge to U.S. naval supremacy in the region. Politically and militarily, the event triggers intense domestic pressure for a decisive response, heightened alert status across U.S. forces, and immediate reinforcement of surviving assets. The surviving carrier—USS Gerald R. Ford—remains on station with its air wing intact, now the primary platform for power projection and potential retaliation.

6.2 Presidential Order for Nuclear Strike

Within hours of the carrier's loss, the President convenes an emergency National Security Council session and receives updated intelligence indicating imminent further Iranian attacks on U.S. forces and allies in the region. Satellite imagery shows Iranian missile batteries re-targeting, fast-attack craft massing, and command nodes preparing follow-on operations. The President concludes that conventional strikes alone may not restore deterrence quickly enough to prevent additional losses or broader regional escalation involving U.S. bases in Gulf Cooperation Council states.

The President directs U.S. Strategic Command to prepare nuclear options and transmits an authenticated order through the National Military Command Center: execute a limited nuclear

strike using carrier-based aircraft from the Ford strike group. The designated targets include hardened Iranian missile storage facilities, command bunkers near Bandar Abbas, and naval bases supporting the attacking forces. The order specifies low-yield weapons (approximately 0.3 to 50 kilotons) to minimize collateral damage while demonstrating resolve and restoring deterrence. The President emphasizes that the strike is intended as a one-time, proportional response to the carrier's destruction and a warning against further attacks, not regime change or unrestricted war.

The order reaches the carrier strike group commander via secure channels, authenticated with Gold Codes and formatted for execution. Aircrews are briefed on delivery profiles, aiming points, and rules of engagement. The timeline is compressed: launch must occur within a narrow window to exploit surprise and degrade Iranian retaliatory capacity before additional salvos can be prepared.

6.3 Commander's Decision-Making Process

Upon receipt of the authenticated nuclear order, the carrier strike group commander—typically a rear admiral—faces an immediate and profound responsibility. The commander must first confirm the order's authenticity through established procedures: matching codes, verifying chain-of-transmission integrity, and consulting with the ship's judge advocate general (JAG) officer and senior staff. Assuming authenticity is established, the commander then evaluates legality under the criteria outlined in Section 5.

The commander reviews available intelligence: target packets detail military value, expected military advantage, civilian population density, and fallout patterns. Conventional alternatives are assessed—whether carrier-based precision strikes with JDAMs, cruise missiles from escorts, or land-based assets could achieve similar degradation of Iranian capabilities with lower risk of escalation or civilian harm. If intelligence indicates viable non-nuclear options remain effective and timely, the necessity test may fail.

Proportionality requires weighing the carrier's loss (a military asset with significant but finite value) against anticipated Iranian civilian casualties from nuclear detonations, even low-yield ones. Estimates of collateral effects—blast radii, thermal injuries, radiation exposure, and long-term health consequences—must be compared to the military gain of neutralizing the immediate threat. If projected civilian harm appears excessive relative to the advantage gained, the order may be disproportionate.

Distinction and humanity considerations follow: are the targets purely military, or are they co-located with civilian infrastructure, hospitals, or residential areas? Low-yield weapons reduce but do not eliminate indiscriminate effects in densely populated coastal regions. Fallout patterns could affect neutral shipping, fishing communities, or neighboring states. The

commander must determine whether the weapon's characteristics and delivery method allow reasonable adherence to distinction.

Finally, the commander considers constitutional dimensions. Absent a congressional declaration of war or authorization under the War Powers Resolution for major hostilities, a nuclear first-use strike against Iranian territory could raise questions of unlawfulness if interpreted as initiating an unauthorized war rather than defending against ongoing attack. While the carrier's loss provides a strong self-defense justification, the leap to nuclear employment without prior congressional input might cross into constitutionally questionable territory.

If, after this assessment, the commander concludes the order is manifestly unlawful—patently violating one or more LOAC principles or constitutional limits—the commander is legally obligated to refuse execution. Refusal would involve notifying higher authority (STRATCOM or NMCC) of the determination, documenting the rationale, and requesting clarification or modification. In extreme cases, the commander might stand down the strike package pending resolution. Obedience to a clearly unlawful order would expose the commander and aircrews to potential war-crimes liability, while refusal upholds the oath to the Constitution and LOAC obligations.

This decision point underscores the human element in nuclear command: even with robust technical safeguards, the final barrier against unlawful use rests on the judgment, training, and moral courage of individual commanders. The scenario illustrates why legal education, independent legal advice, and clarity on refusal protocols remain essential components of nuclear posture.

7. Precedents and Case Studies

Historical precedents and case studies provide concrete illustrations of how military personnel have navigated the tension between obedience and the duty to refuse unlawful orders. These examples span U.S. military history, international tribunals, and contemporary statements from senior leaders. They demonstrate that refusal is not only permissible but required when orders manifestly violate law, ethics, or fundamental principles. In nuclear contexts, where the stakes involve mass destruction, these precedents underscore the importance of individual judgment and accountability. While outright refusals of nuclear orders remain hypothetical in U.S. practice due to the absence of tactical nuclear deployments on carriers since 1991, analogous cases involving war crimes, disproportionate force, and illegal aggression inform the framework commanders must apply.

7.1 Historical Refusals in U.S. Military History

U.S. military personnel have, in several documented instances, refused or intervened against orders perceived as unlawful, often at significant personal risk. One of the most prominent examples is the My Lai Massacre on March 16, 1968, during the Vietnam War. U.S. Army soldiers from Charlie Company, 1st Battalion, 20th Infantry Regiment, killed between 347 and 504 unarmed Vietnamese civilians, including women, children, and elderly people, in the village of Son My (commonly known as My Lai). Many victims were executed in groups, and some women were raped before being killed.

Chief Warrant Officer Hugh Thompson Jr., piloting a reconnaissance helicopter, observed the killings from the air. He landed his aircraft between U.S. troops and fleeing civilians, ordering his crew to train machine guns on American soldiers to prevent further murders. Thompson confronted platoon leader Lieutenant William Calley directly, demanding an explanation and threatening to open fire if the killings continued. He then evacuated surviving civilians, including a child from a ditch filled with bodies, and reported the massacre to superiors, leading to a cease-fire order that halted the slaughter. Thompson's actions saved numerous lives but initially drew backlash; he faced threats and was vilified by some in Congress who accused him of disloyalty. He later testified against perpetrators, and in 1998, he and his crew received the Soldier's Medal for heroism.

Other cases include refusals related to deployments. In 2006, First Lieutenant Ehren Watada refused to deploy to Iraq, arguing the war was illegal under international law and the U.S. Constitution. His court-martial ended in a mistrial, but it highlighted debates over conscience versus command. Similarly, in 2016, Captain Nathan Michael Smith filed a lawsuit challenging the legality of orders supporting operations against ISIS, though he ultimately deployed. These instances show that while refusals often face severe consequences, they align with the duty to reject patently unlawful commands, particularly those involving war crimes or unauthorized aggression.

7.2 International Examples and Nuremberg Principles

The principle that superior orders do not absolve individuals of responsibility for unlawful acts was codified after World War II through the Nuremberg Trials (1945–1946). The International Military Tribunal rejected the "superior orders" defense for Nazi officials accused of war crimes, crimes against humanity, and genocide. Article 8 of the London Charter stated that acting pursuant to a superior's order "shall not free him from responsibility, but may be considered in mitigation of punishment" if justice required. Defendants like Otto Ohlendorf and Rudolf Höss claimed they were merely following orders, but the tribunal held that moral choice existed and that manifestly illegal commands—such as mass executions of civilians—must be refused.

This established the Nuremberg Principles, later affirmed by the United Nations General Assembly in 1950. Principle IV declares: "The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible." These principles influenced modern international humanitarian law, including the Rome Statute of the International Criminal Court (Article 33), which limits the superior orders defense to cases where the individual was under a legal obligation to obey and did not know the order was unlawful.

U.S. military doctrine incorporates these norms through the Law of War Manual and training. The rejection of blanket obedience has shaped responses to atrocities like Abu Ghraib in Iraq (2003–2004), where low-level personnel were prosecuted for abuses while emphasizing command responsibility. Internationally, cases such as the Yamashita trial (1946), holding Japanese General Tomoyuki Yamashita accountable for subordinates' crimes, reinforced command responsibility and the duty to prevent or report unlawful acts.

7.3 Modern Statements from Military Leaders

Contemporary U.S. military leaders have publicly affirmed the duty to refuse unlawful orders, particularly in nuclear contexts. In 2017, then-Air Force General John Hyten, Commander of U.S. Strategic Command, stated during a public forum that he would refuse an illegal nuclear strike order from the President. Hyten emphasized that he would advise against it, push back, and refuse execution if the order violated laws of armed conflict, such as proportionality or necessity. He noted, "If it's illegal, guess what's going to happen? I'm going to say, 'Mr. President, that's illegal.' ... And guess what he's going to do? He's either going to say, 'I've changed my mind,' or the order ain't gonna happen." Hyten highlighted the human element in nuclear command, ensuring legal advisors were present and stressing that executing unlawful orders could lead to lifelong imprisonment.

Similarly, retired General Robert Kehler, former STRATCOM commander, told a Senate committee that military personnel are "bound to question (and ultimately refuse) illegal orders." He described hypothetical scenarios where a first-use nuclear strike might fail legal tests, affirming the obligation to refuse. Surveys of service members indicate that 30–50% would disobey orders to bomb civilian cities or commit other clear violations, with higher refusal rates when respondents first considered the duty to disobey unlawful commands.

These statements reflect ongoing training and doctrine: the Department of Defense and services reinforce that obedience applies only to lawful orders, with refusal required for patently illegal ones. In nuclear planning, leaders stress adherence to LOAC principles, ensuring that even sole presidential authority does not override fundamental legal constraints. Such

affirmations serve as both reassurance and reminder that the system relies on individual integrity to prevent misuse.

8. Ethical Considerations for Commanders

Beyond the strict legal obligations outlined in previous sections, commanders confronting potentially unlawful nuclear orders face profound ethical dilemmas. Ethics in military service transcend compliance with law; they involve personal integrity, moral reasoning, and responsibility for the consequences of one's actions. Nuclear command decisions carry unique weight: the potential destruction of cities, long-term radiological devastation, and the risk of global escalation place an extraordinary moral burden on the individual. Commanders must reconcile their duty to the chain of command with their duty to humanity, their oath to the Constitution, and their own conscience. Ethical reflection is not optional; it is embedded in military leadership doctrine, professional military education, and the ethos of the profession of arms. When an order appears to cross legal thresholds, the ethical imperative to refuse often aligns with—but may exceed—the legal duty, requiring courage to act against institutional pressure.

8.1 Balancing Loyalty and Morality

Loyalty to superiors, comrades, and the mission is a core military virtue. It fosters cohesion, trust, and effectiveness in combat. Yet loyalty is not absolute; it is subordinate to higher moral and constitutional commitments. The tension arises when loyalty to the chain of command conflicts with loyalty to fundamental principles: the protection of innocent life, adherence to just-war traditions, and fidelity to the Constitution.

Military ethicists distinguish between "loyalty to persons" (superiors, peers, subordinates) and "loyalty to ideals" (the Constitution, the rule of law, human dignity). When an order appears manifestly unlawful—such as directing indiscriminate nuclear use or disproportionate civilian harm—the commander must prioritize loyalty to ideals. This prioritization does not constitute disloyalty; it reflects the understanding that the military serves the nation and its constitutional order, not any individual officeholder.

Philosophers such as Michael Walzer and Michael Ignatieff have argued that leaders bear personal moral responsibility for the foreseeable consequences of their actions, even when acting under orders. In nuclear contexts, this responsibility is amplified: a single decision could cause millions of deaths and irreversible environmental damage. Commanders must ask themselves: Does obedience preserve the moral legitimacy of the armed forces, or does it compromise it? Does refusal, though painful, uphold the profession's claim to ethical conduct? Historical figures like Hugh Thompson at My Lai demonstrated that moral courage—acting to

stop wrongdoing despite institutional pressure—can ultimately strengthen rather than undermine military honor.

8.2 Training and Psychological Factors

U.S. military training programs emphasize ethical decision-making under stress. The Naval Leadership Continuum, Army Professional Ethic, and Air Force Core Values courses teach leaders to recognize moral dilemmas, apply ethical frameworks (such as just-war theory and LOAC principles), and seek counsel from chaplains, judge advocates, and peers. Annual law-of-war training reinforces the duty to disobey unlawful orders, using historical case studies to illustrate consequences of moral failure.

Psychologically, however, the pressures of command in crisis are immense. Cognitive biases—obedience to authority (Milgram experiments), groupthink, confirmation bias, and the diffusion of responsibility—can impair judgment. Time compression in nuclear scenarios exacerbates these effects: minutes may separate decision from execution, limiting reflection. Commanders may experience acute stress, fear of career ruin, concern for subordinates' safety, or dread of appearing weak or disloyal.

To counter these factors, training includes realistic simulations, ethical vignettes, and stress-inoculation exercises. Leaders are taught to slow down when possible, consult trusted advisors, and articulate concerns up the chain. The "two-person rule" and presence of legal officers during nuclear briefings provide structural support for ethical deliberation. Modern doctrine also encourages commanders to document objections formally, creating a record that protects both the individual and the institution if later scrutiny occurs.

8.3 Consequences of Refusal or Obedience

The consequences of refusal or obedience are stark and asymmetrical.

Obedience to an unlawful order exposes the commander, aircrews, and supporting personnel to individual criminal liability under U.S. law (War Crimes Act, UCMJ) and international law (Rome Statute, customary IHL). Post facto prosecution—by U.S. courts-martial, international tribunals, or foreign jurisdictions exercising universal jurisdiction—is possible, especially if the strike causes widespread civilian casualties or environmental catastrophe. Even if no prosecution occurs, obedience may result in lifelong moral injury, guilt, and reputational damage within the profession.

Refusal carries immediate professional risks: relief from command, court-martial for disobeying a (presumed) lawful order, loss of security clearance, career termination, and social ostracism. Refusal may also trigger operational disruption—delayed or aborted missions—and invite

second-guessing from superiors. In extreme cases, the commander could face arrest or confinement pending investigation.

Yet refusal also offers protections. If the order is later adjudged unlawful, the refusing commander may be vindicated, as in cases where whistleblowers or dissenters received honors after the fact. Documentation of concerns, consultation with legal advisors, and attempts to seek clarification strengthen the refusal's legitimacy. Public and congressional support may emerge if the refusal prevents a manifestly illegal act. Ethically, refusal aligns with the profession's claim to moral autonomy and preserves the armed forces' legitimacy as defenders of constitutional order rather than instruments of unchecked power.

In practice, most senior leaders interviewed in academic studies express confidence that they would refuse clearly unlawful nuclear orders, even at personal cost. This reflects both training and a deep-seated belief that the profession's integrity depends on such moral courage. The asymmetry of consequences—catastrophic harm from obedience versus severe but survivable professional consequences from refusal—tilts the ethical calculus toward refusal when the order is patently illegal.

Ultimately, the ethical burden rests on the commander's conscience and judgment. Training, doctrine, and institutional culture seek to equip leaders to bear that burden responsibly, ensuring that nuclear weapons remain instruments of last resort under lawful and moral control.

9. Implications for Deterrence and Policy

The duty of military commanders to refuse unlawful nuclear orders has far-reaching consequences for U.S. deterrence strategy, crisis stability, and national security policy. In an era of renewed great-power competition and regional flashpoints like the U.S.-Iran standoff, the existence of this refusal mechanism serves as both a safeguard against misuse of nuclear weapons and a potential source of uncertainty for adversaries. A credible refusal capability reinforces the legitimacy of U.S. nuclear posture by demonstrating that the arsenal is governed by law and ethics rather than unchecked executive whim. At the same time, visible or anticipated refusal could complicate signaling during crises, potentially undermining perceived resolve or inviting miscalculation. This section explores how the refusal duty shapes escalation dynamics, offers policy recommendations to strengthen safeguards, and considers broader geopolitical effects in the context of ongoing tensions with Iran and other actors.

9.1 Role in Preventing Escalation

The possibility that commanders might refuse unlawful nuclear orders acts as an internal brake on escalation, contributing to crisis stability. By embedding legal and ethical constraints within the command structure, the U.S. system reduces the risk of rapid, uncontrolled nuclear use driven by emotion, incomplete information, or political pressure. In hypothetical scenarios like the carrier-loss case examined earlier, a commander's independent assessment of necessity, proportionality, distinction, and humanity can prevent disproportionate responses that might otherwise spiral into wider conflict.

This mechanism enhances deterrence by denial: adversaries contemplating limited nuclear coercion or provocative conventional attacks know that U.S. nuclear retaliation is not automatic but subject to legal scrutiny. This raises the perceived costs of miscalculation, as an unlawful or excessive U.S. response could be blocked internally, forcing adversaries to weigh the risk of triggering a lawful, overwhelming conventional or strategic counterstrike instead. Historical statements from leaders like former STRATCOM commanders emphasize that refusal preserves credibility—deterrence fails if nuclear weapons are seen as instruments of aggression rather than defense.

In the current Iran crisis, where conventional naval buildups and threats of strikes create escalation ladders, the refusal duty discourages rash nuclear escalation. If a carrier were lost, an unlawful nuclear order could be challenged, buying time for de-escalation through diplomacy or conventional means. This internal check aligns with broader U.S. efforts to manage escalation risks in multi-domain environments, including cyber and space threats to command systems. Ultimately, it strengthens strategic stability by ensuring nuclear use remains a last-resort option reserved for extreme circumstances, consistent with declaratory policy.

9.2 Recommendations for Enhancing Safeguards

To bolster the effectiveness of refusal mechanisms while preserving command authority and deterrence credibility, several targeted improvements are warranted. These build on existing doctrine, training, and technical safeguards without undermining presidential sole authority.

First, enhance training and education on unlawful orders. Expand mandatory annual law-of-war instruction and professional military education to include more nuclear-specific vignettes, realistic simulations of crisis decision-making, and explicit discussions of escalation thresholds. Incorporate lessons from historical refusals (e.g., My Lai) and modern leader statements to reinforce that refusal is a duty, not disloyalty. Psychological preparation should address stress, obedience biases, and moral injury through stress-inoculation and chaplain support.

Second, strengthen institutional support for commanders. Ensure judge advocates are routinely embedded in nuclear decision conferences and strike planning, providing real-time legal

analysis. Formalize protocols for documenting concerns and seeking clarification up the chain without delaying execution of lawful orders. Consider protected channels for reporting potential unlawful directives to higher authorities or inspectors general.

Third, pursue legislative and policy reforms to clarify boundaries. Support proposals like the National Security Powers Act to require congressional involvement in major hostilities, reducing constitutional ambiguity around unauthorized nuclear use. Explore requiring certification of lawfulness (e.g., by the Attorney General or senior legal advisors) for first-use scenarios, while preserving rapid response in existential threats. Improve transparency in legal interpretations through measures like the OLC Reporting Act.

Fourth, invest in resilient nuclear command, control, and communications (NC3). Prioritize modernization to counter cyber, space, and non-kinetic threats that could degrade decision-making or create false imperatives for nuclear use. Assume partial compromise in doctrine and design "thin-line" survivable pathways for essential functions.

Finally, foster dialogue with allies and partners on extended deterrence, ensuring refusal mechanisms do not erode assurance. These steps would reinforce safeguards, reduce miscalculation risks, and maintain a credible, lawful deterrent posture.

9.3 Broader Geopolitical Ramifications

The refusal duty influences global perceptions of U.S. nuclear posture and affects alliances, arms control, and proliferation dynamics. Internationally, it bolsters U.S. claims to responsible stewardship, contrasting with adversaries like Russia or China that emphasize centralized, unquestioned command. This strengthens normative arguments against nuclear use and supports non-proliferation efforts by demonstrating that U.S. weapons remain under ethical restraint.

For allies under extended deterrence, the mechanism reassures partners that U.S. nuclear forces will not be used recklessly, preserving credibility while avoiding entrapment in escalatory spirals. In the Iran context, it signals that U.S. responses will remain proportionate, potentially encouraging diplomacy over brinkmanship.

Adversaries may interpret refusal as a vulnerability, testing U.S. resolve through gray-zone provocations or limited strikes to probe command fractures. However, this risks backfiring if refusal leads to more measured but overwhelming conventional retaliation, reinforcing deterrence by denial.

In a multipolar nuclear landscape without binding arms control (post-New START expiration), the refusal duty helps manage risks of miscalculation amid expanding arsenals. It encourages

strategic dialogue on NC3 vulnerabilities and escalation pathways, potentially opening avenues for risk-reduction measures.

Ultimately, embracing refusal as a strength—rather than a weakness—upholds U.S. leadership in a rules-based order. It ensures nuclear weapons serve defensive purposes, deters aggression through credible restraint, and mitigates the catastrophic risks of misuse in an increasingly volatile world. Vigilance in training, doctrine, and policy will sustain this balance, safeguarding both national security and global stability.

10. Conclusion

The preceding analysis has examined the intricate interplay between presidential nuclear authority, military command responsibilities, and the enduring legal and ethical constraints that govern the use of nuclear weapons in the United States. At its core, this paper affirms that obedience to orders is not absolute: U.S. service members, particularly those in positions of command, bear a solemn duty to refuse manifestly unlawful directives. This duty arises from the Constitution they swear to defend, the Uniform Code of Military Justice, the laws of armed conflict, and fundamental principles of humanity and proportionality. In an age when nuclear weapons remain the ultimate instrument of destruction, the refusal mechanism serves as a critical safeguard against misuse, escalation, and moral catastrophe. By upholding these obligations, commanders preserve not only the rule of law but also the moral legitimacy of the armed forces and the credibility of American deterrence.

10.1 Summary of Key Arguments

This paper has demonstrated several interlocking propositions. First, tactical nuclear weapons have not been deployed on U.S. aircraft carriers since their unilateral removal under President George H.W. Bush in 1991–1992, a policy shift reinforced by subsequent Nuclear Posture Reviews and the absence of any reversal as of 2026. Current naval buildups near Iran remain conventional in character, relying on precision air and missile strikes rather than nuclear options.

Second, U.S. military law unequivocally requires obedience only to lawful orders. The Uniform Code of Military Justice, oaths of enlistment and commission, and incorporation of international humanitarian law create a clear hierarchy: constitutional fidelity and LOAC principles supersede blind compliance. Nuclear orders must satisfy necessity, proportionality, distinction, and humanity; failure on any criterion renders the order unlawful and subject to refusal.

Third, presidential sole authority, while constitutionally rooted, is constrained by downstream legal and procedural checks. Authentication processes, Permissive Action Links, two-person

rules, and human judgment form layered barriers against unauthorized or illegal use. Commanders retain the independent responsibility—and legal obligation—to evaluate orders against established criteria.

Fourth, historical precedents (My Lai, Nuremberg), international norms, and modern statements from senior leaders (Hyten, Kehler) consistently affirm that refusal of patently illegal commands is both permissible and required. Ethical considerations further reinforce this duty, balancing loyalty with morality and preparing leaders psychologically for such decisions.

Finally, the refusal mechanism contributes to strategic stability by preventing disproportionate escalation, enhancing deterrence legitimacy, and signaling responsible stewardship. In the hypothetical scenario of carrier loss prompting a nuclear order, commanders must apply these tests rigorously, refusing execution when the order crosses legal or constitutional thresholds.

10.2 Future Outlook in U.S.-Iran Relations

The trajectory of U.S.-Iran relations remains uncertain and volatile as of February 2026. Diplomatic efforts in Geneva have produced tentative understandings on guiding principles, yet core disputes—uranium enrichment limits, ballistic missile programs, regional proxy activities, and sanctions relief—persist. The dual-carrier presence in the Arabian Sea, combined with repositioned fighter squadrons and heightened rhetoric from both capitals, sustains a high-risk environment prone to miscalculation.

Several paths forward are plausible. Optimistically, sustained negotiations could yield a revised agreement that constrains Iran's nuclear program while offering verifiable sanctions relief, reducing the impetus for military confrontation. Pessimistically, collapse of talks, further Iranian provocations, or preemptive U.S. or Israeli strikes could trigger direct conflict, potentially drawing in regional actors and complicating command decisions under pressure.

Regardless of the diplomatic outcome, the legal and ethical framework governing nuclear use will remain relevant. Even if tactical nuclear weapons are never redeployed to carriers, the principles of necessity, proportionality, and distinction apply to any major escalation involving strategic systems. Future crises will test whether institutional safeguards, training, and leadership resolve hold firm amid political polarization, rapid information flows, and cyber-enabled disruptions to command structures. The refusal duty, properly exercised, can serve as a stabilizing force, preventing nuclear thresholds from being crossed in moments of passion or incomplete intelligence.

10.3 Call for Continued Vigilance

The capacity to refuse unlawful nuclear orders is not a flaw in the U.S. command system; it is one of its greatest strengths. It ensures that nuclear weapons remain instruments of defense

rather than tools of aggression, that military power stays subordinate to constitutional order, and that individual conscience retains a role in preventing catastrophe.

Continued vigilance is therefore essential. Policymakers must strengthen training, embed legal expertise in crisis decision-making, modernize resilient command-and-control architecture, and clarify constitutional boundaries through measured legislative engagement. Military leaders must reinforce ethical education, normalize discussion of refusal as duty rather than disloyalty, and prepare successors for the moral weight of nuclear command. The American public and international community should demand transparency and accountability in nuclear posture, recognizing that responsible stewardship requires both capability and restraint.

In the final analysis, the survival of civilization may depend less on the number of warheads than on the character of those entrusted to employ them. By honoring the duty to refuse unlawful orders, U.S. commanders uphold not only the law but the deepest values of the republic they serve. In an uncertain world, that commitment remains our most reliable safeguard against the unthinkable.

References

1. Bush, George H. W. "Address to the Nation on Reducing Nuclear Weapons." September 27, 1991. The American Presidency Project. https://www.presidency.ucsb.edu/documents/address-the-nation-reducing-nuclear-weapons

2. U.S. Department of Defense. "Nuclear Posture Review." 2018. https://media.defense.gov/2018/Feb/02/2001872886/-1/-1/1/2018-NUCLEAR-POSTURE-REVIEW-FINAL-REPORT.PDF

3. U.S. Department of Defense. "Nuclear Posture Review." 2022. https://media.defense.gov/2022/Mar/29/2002968401/-1/-1/1/2022-NUCLEAR-POSTURE-REVIEW.PDF

4. U.S. Department of Defense. "DoD Law of War Manual." Updated December 2016 (with subsequent amendments). https://dod.defense.gov/Portals/1/Documents/pubs/DoD%20Law%20of%20War%20Manual%20-%20June%202015%20Updated%20Dec%202016.pdf

5. Uniform Code of Military Justice (UCMJ), 10 U.S.C. §§ 801–946 (1950, as amended). https://www.law.cornell.edu/uscode/text/10/subtitle-A/part-II/chapter-47

6. War Crimes Act of 1996, 18 U.S.C. § 2441. https://www.law.cornell.edu/uscode/text/18/2441

7. Manual for Courts-Martial United States (2024 Edition). https://jsc.defense.gov/Military-Law/Current-Publications-and-Updates/

8. International Court of Justice. "Legality of the Threat or Use of Nuclear Weapons." Advisory Opinion, July 8, 1996. https://www.icj-cij.org/case/95

9. United Nations General Assembly. "Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal." Resolution 95(I), December 11, 1946.

10. Rome Statute of the International Criminal Court. Article 33. Adopted July 17, 1998. https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf

11. Hyten, John E. (Gen., USAF). Remarks at the Space and Missile Defense Symposium, Huntsville, Alabama, August 15, 2017. Transcribed and reported in multiple outlets including The Atlantic and Defense One.

12. Kehler, C. Robert (Gen., USAF, Ret.). Testimony before the Senate Armed Services Committee, Hearing on Nuclear Forces, March 8, 2017.

13. U.S. Naval Institute. "Should the Navy Reconsider Nuclear Weapons for Carrier-Based Aircraft?" Proceedings, November 2025.

14. U.S. Central Command and Department of Defense press releases and satellite imagery analyses (January–February 2026 deployments of USS Abraham Lincoln and USS Gerald R. Ford carrier strike groups).

15. Geneva Conventions of 1949 and Additional Protocol I (1977). International Committee of the Red Cross. https://www.icrc.org/en/doc/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm

16. War Powers Resolution, Pub. L. 93-148, 87 Stat. 555 (1973), 50 U.S.C. §§ 1541–1548. https://www.congress.gov/bill/93rd-congress/house-joint-resolution/542

17. Thompson, Hugh, Jr. Interview and testimony related to My Lai Massacre, U.S. Army Court of Inquiry, 1969–1970. See also U.S. Army Center of Military History, "The My Lai Massacre and Its Cover-Up."

18. Various public opinion polls and academic surveys on military attitudes toward unlawful orders (e.g., studies cited in works by Peter D. Feaver, James Burk, and others, 2000–2020).

19. Department of Defense Directive 2311.01E, "DoD Law of War Program," updated 2020.

20. National Security Archive and Arms Control Association compilations on Presidential Nuclear Initiatives (PNIs) of 1991–1992.

(Note: All web-based sources reflect publicly available information as of February 17, 2026. Classified or internal military documents are not cited; the analysis relies solely on open-source materials, official publications, and declassified historical records.)

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